

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:03cr67-MU**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
LEWIS MOSES BYRD,)
)
)
 Defendant,)

)

ORDER

THIS MATTER comes before the Court upon Defendant's Motion to Stay, filed February 24, 2006.

On April 29, 2003, Defendant was indicted for violating 21 U.S.C. § 841, 18 U.S.C. § 924©, and 18 U.S.C. § 922. On December 23, 2005, the parties filed a plea agreement. On January 7, 2006, Defendant entered a plea of "guilty" at his Rule 11 hearing. On January 24, 2006, this Court sentenced Petitioner to 262 months imprisonment for violating 21 U.S.C. § 841 and a consecutive term of imprisonment of 120 months for violating 18 U.S.C. § 924©. On January 26, 2006, Defendant filed a Notice of Appeal. His appeal is currently pending before the United States Court of Appeals for the Fourth Circuit.

Defendant has filed the instant motion complaining of Booker errors and asking the Court to grant a stay to redress this Court's sentencing errors. As noted above, Defendant's case is currently pending before the United States Court of Appeals for the Fourth Circuit. As such, this Court lacks jurisdiction to rule on Defendant's motion and it

is dismissed.

IT IS, THEREFORE, ORDERED that Defendant's Motion to Stay is **DENIED**.

Signed: March 8, 2006

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

